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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,873	01/11/2005	Vincent Botreau	FR 020074	6362
24737 7590 09/04/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER ANYIKIRE, CHIKAODILI E				
ART UNIT 2621		PAPER NUMBER		
MAIL DATE 09/04/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/520,873

**Applicant(s)**

BOTTREAU, VINCENT

**Examiner**

CHIKAODILI E. ANYIKIRE

**Art Unit**

2621

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/11/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

1. This application is responsive to application number (10520873) filed on January 11, 2005. Claims 1-3 are pending and have been examined.

#### ***Information Disclosure Statement***

2. Acknowledgement is made of applicant's information disclosure statement.

#### ***Double Patenting***

3. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

4. Claims 1-3 of this application conflict with claims 1-3 of Application No. 10527109. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-3 rejected under 35 U.S.C. 103(a) as being unpatentable over Teranishi et al (US 5,633,684) in view of Jeannin et al ("MPEG-7 Visual Motion Descriptors").

As per **claim 1**, Teranishi et al discloses a video coding method for the compression of a bitstream corresponding to an original video sequence that has been divided into successive groups of frames (GOFs) the size of which is  $N=2 \cdot \sup.n$  with  $n=0$ , or 1, or 2, . . . , said coding method comprising the following steps, applied to each successive GOF of the sequence:

a) a spatio-temporal analysis step, leading to a spatio-temporal multiresolution decomposition of the current GOF into  $2 \cdot \sup.n$  low and high frequency temporal subbands (col 6 lines 14-16), said step itself comprising the following sub-steps:

a motion estimation sub-step; based on said motion estimation, a motion compensated temporal filtering sub-step, performed on each of the  $2 \cdot \text{sup} \cdot n - 1$  couples of frames of the current GOF (col 6 lines 61-67);

a spatial analysis sub-step, performed on the subbands resulting from said filtering sub-step (col 7 lines 30-36);

b) an encoding step, performed on said low and high frequency temporal subbands resulting from the spatio-temporal analysis step and on motion vectors obtained by means of said motion estimation step (col 6 lines 61-67 and col 7 lines 30-36).

However, Teranishi does not explicitly teach said coding method being further characterized in that said spatio-temporal analysis step also comprises a decision sub-step for activating or not the motion estimation sub-step, said decision sub-step itself comprising a motion activity pre-analysis operation based on the MPEG-7 Motion Activity descriptors and performed on the input frames or subbands to be motion compensated and temporally filtered.

In the same field of endeavor, Jeannin teaches said coding method being further characterized in that said spatio-temporal analysis step also comprises a decision sub-step for activating or not the motion estimation sub-step, said decision sub-step itself comprising a motion activity pre-analysis operation based on the MPEG-7 Motion Activity descriptors and performed on the input frames or subbands to be motion compensated and temporally filtered (Section III lines 1-20).

Therefore, it would have been obvious for one having skilled in the art at the time of the invention to modify the invention of Teranishi with the invention of Jeannin. MPEG-7 is video compression standard and is well-known in the art.

As per **claim 2**, Jeannin discloses a coding method according to claim 1, said decision sub-step being based on the Intensity of activity attribute of the MPEG-7 Motion Activity Descriptors for all the frames or subbands of the current temporal decomposition level and comprising the following operations: 1) for a specific temporal decomposition level: a) perform ME between each couple of frames (or subbands) that compose this level: for each couple: compute the standard deviation of motion vector magnitude; compute the Activity value. b) compute the average Activity Intensity  $I(av)$ : if  $I(av)$  is equal to 5 (value corresponding to "very high intensity"), it is decided to deactivate ME for respectively the current temporal decomposition level and the following levels as well; if  $I(av)$  is strictly below 5, it is decided to activate ME for the current temporal decomposition level. 2) go to the next temporal decomposition level (Section III lines 19-21; Jeannin discloses using a range and the upper value of the range being 5)

Regarding **claim 3**, arguments analogous to those presented for claim 1 are applicable for claim 3.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHIKAODILI E. ANYIKIRE whose telephone number is

(571)270-1445. The examiner can normally be reached on Monday to Friday, 7:30 am to 5 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (571) 272 - 7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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